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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,678	04/08/2004	V. Raman Sukumar	RS03-232	1379
7590	11/13/2006		EXAMINER	
John C. Andrade, Esquire 116 West Water Street P.O. Box 598 Dover, DE 19903			NAGPAUL, JYOTI	
			ART UNIT	PAPER NUMBER
			1743	

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/821,678	SUKUMAR, V. RAMAN
	Examiner	Art Unit
	Jyoti Nagpaul	1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 September 2006.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or. b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>4/8/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group I in the reply filed on September 12, 2006 is acknowledged. The traversal is on the ground(s) that the applicant does not agree that the process as claimed can be practiced by another materially different apparatus or by hand in a laboratory without the claimed apparatus. This is found persuasive.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to examiner what the regulations governed by the Clinical Laboratory Improvements Act of 1988 are. Also, these regulations are subjected to change. This claim is highly unclear.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. **Claims 1-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Peters in view of Marek.

Peters teaches an apparatus for quick freezing tissue specimens. The apparatus comprises a cryostat within the laboratory for freezing fresh tissue specimens (See abstract), a microscope within the laboratory for reading slides to make microscopic diagnosis (See Col. 1, Lines 33-37), means within the laboratory for handling fresh tissue specimens, inking the tissues within the laboratory for indicating various locations in fresh tissue specimens (See col. 10, Lines 61-68) and a sharp instrument within the

laboratory for dissecting the specimens. (See abstract) (See Col. 1, Lines 33-49) (See Col. 3, Lines 4-36) Peters further teaches means within the laboratory for histological staining the fresh tissue specimen is frozen. Peters further teaches accepting the fresh tissue specimens, freezing the fresh tissue specimens, handling the fresh tissue specimens, indicating various locations of fresh tissue specimens and cutting the fresh tissue specimens. (See Col. 3, Lines 4-36) (See Col. 10, Lines 61-67 to Col. 11, Lines 1-67)

Peters fails to teach means for transporting the laboratory is a van and means within the laboratory for communicating the microscope diagnosis to an outside entity. Peter further fails to teach wherein the means for communicating is an intercom system and means to dispose of contaminated materials and freezing the fresh tissues specimens within a mobile laboratory, the laboratory is on wheels and capable of being moved from location to location each day. Peter also fails to teach performing all operations within a mobile laboratory having air conditioning and a separate power source for air conditioning within the laboratory.

Marek teaches a mobile ambulatory surgery center. The mobile ambulatory center teaches a van for transporting the laboratory, and means within the laboratory for communicating the diagnosis to an outside entity by an intercom system and means to dispose of contaminated materials. (See Col. 6, Lines 25-64) Marek further teaches performing all operations within a mobile laboratory having air conditioning and a separated power source for air conditioning within the laboratory. (See Col. 5, Lines 1-60)

It would have been obvious to a person of ordinary skill in the art to have provided the device of Peters such that means for transporting the laboratory is a van and means within the laboratory for communicating the microscope diagnosis to an outside entity and the means for communicating is an intercom system and means to dispose of contaminated materials and freezing the fresh tissues specimens within a mobile laboratory, the laboratory is on wheels and capable of being moved from location to location each day in order easily and more effectively reduce diagnosis time and analysis.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jyoti Nagpaul whose telephone number is 571-272-1273. The examiner can normally be reached on Monday thru Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

  
Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JN